

ASSEMBLY BILL

No. 1705

Introduced by Assembly Member Torlakson

January 27, 1998

An act to amend Sections 7685.2 and 9741 of, and to add Section 9741.1 to, the Business and Professions Code, and to amend Sections 7116, 7117, and 103055 of the Health and Safety Code, relating to human remains.

LEGISLATIVE COUNSEL'S DIGEST

AB 1705, as introduced, Torlakson. Cremated remains.

Existing law imposes various requirements upon funeral directors with respect to entering into a contract for furnishing services or property in connection with the burial or other disposal of a dead human body.

This bill would require a funeral director to obtain from a person contracting for cremation services a signed declaration designating specific instructions with respect to the disposition of cremated remains. The funeral director when entering into a contract to furnish cremation services would also be required to provide a written or printed notice to the potential purchaser of cremation services as to obtaining additional information on cremation matters, removal of cremated remains, cremated remains containers, and a list of names and telephone numbers of registered cremated remains disposers doing business in the area.

Existing law prohibits any person from disposing of or offering to dispose of any cremated human remains unless registered as a cremated remains disposer. Existing law

specifies certain information to be included on the registration form.

This bill would additionally require the registration form to contain a pilot's certificate number if cremated human remains will be scattered by air, and a description and address of the cremated remains storage area. The bill would require the Department of Consumer Affairs to prepare and deliver to every registered cremated remains disposer a booklet, as specified. It would also permit cremated remains to be scattered or placed in areas where no local prohibition exists, and would require a permit for disposition to contain the address or description of the place where remains are to be buried or scattered.

Existing law authorizes the burial of cremated human remains at sea.

This bill would include inland navigable waters, exclusive of lakes and streams, within the scope of that authorization but would exclude from that authorization the burial of cremated human remains within 500 yards of the shoreline.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7685.2 of the Business and
2 Professions Code is amended to read:
3 7685.2. (a) No funeral director shall enter into a
4 contract for furnishing services or property in connection
5 with the burial or other disposal of a dead human body
6 until he *or she* has first submitted to the potential
7 purchaser of ~~such~~ *those* services or property a written or
8 printed memorandum containing the following
9 information, provided ~~such~~ *that* information is available
10 at the time of execution of the contract:
11 (a)
12 (1) The total charge for the funeral director's services
13 and the use of his *or her* facilities, including the
14 preparation of the body and other professional services,
15 and the charge for the use of automotive and other
16 necessary equipment.

~~(b)~~

(2) An itemization of charges for the following merchandise as selected: the casket, an outside receptacle, and clothing.

~~(c)~~

(3) An itemization of fees or charges and the total amount of cash advances made by the funeral director for transportation, flowers, cemetery or crematory charges, newspaper notices, clergy honorarium, transcripts, telegrams, long distance telephone calls, music, and ~~such~~ any other advances as authorized by the purchaser.

~~(d)~~

(4) An itemization of any other fees or charges not included above.

~~(e)~~

(5) The total of the amount specified in ~~subdivisions (a), (b), (c), and (d)~~ paragraphs (1) to (4), inclusive.

If the charge for any of the above items is not known at the time the contract is entered into, the funeral director shall advise the purchaser of the charge therefor, within a reasonable period after the information becomes available. All prices charged for items covered under Sections 7685 and 7685.1 shall be the same as those given under such sections.

(b) A funeral director shall obtain from the person contracting for cremation services a signed declaration designating specific intentions with respect to the disposition of cremated remains. The following is a suggested form for authorization and declaration:

1 *DECLARATION OF INTENT FOR*
2 *DISPOSITION OF CREMATED REMAINS*

3
4 I, _____ (*NAME OF PERSON ARRANGING FOR*
5 *CREMATION*), hereby declare my intention that the cremated
6 remains of _____ (*NAME OF DECEASED*), whose
7 cremation I have arranged with _____ (*NAME OF*
8 *FUNERAL ESTABLISHMENT OR FUNERAL DIRECTOR*)
9 and whose cremated remains will be in the possession of _____
10 _____ (*NAME OF FUNERAL ESTABLISHMENT OR*
11 *FUNERAL DIRECTOR*), shall be disposed of in the following
12 manner: _____ .

13 I am aware that after a period of 120 days from the date of
14 cremation, if I have not claimed the cremated remains of _____
15 _____ (*NAME OF DECEASED*), the above named
16 funeral establishment may lawfully dispose of the unclaimed
17 cremated remains.

18
19 _____
20 *SIGNATURE OF PERSON*
21 *ARRANGING FOR CREMATION*

_____ *DATE*

22 _____
23 *SIGNATURE OF FUNERAL*
24 *DIRECTOR IN CHARGE*

_____ *DATE*

25
26 (c) A funeral director entering into a contract to
27 furnish cremation services shall provide to the potential
28 purchaser of cremation services, on the first page of the
29 contract for cremation services a written or printed
30 notice containing the following information:

31 (1) "FOR MORE INFORMATION ON CREMATION
32 MATTERS, CONTACT: (NAME); (ADDRESS);
33 (TELEPHONE NUMBER).

34 (2) A person having the right to control disposition of
35 cremated remains may remove the remains in a durable
36 container from the place of cremation or interment,
37 pursuant to Section 7054.6 of the Health and Safety Code.

38 (3) If the cremated remains container cannot
39 accommodate all cremated remains of the deceased, the
40 crematory shall provide a larger cremated remains

1 container at no additional cost, or place the excess in a
2 second container that cannot easily come apart from the
3 first, pursuant to Section 8345 of the Health and Safety
4 Code.

5 (4) A list of the names and telephone numbers of
6 registered cremated remains disposers doing business in
7 the area. If the list is based upon information supplied by
8 the Department of Consumer Affairs, the funeral
9 director shall not be liable for the accuracy of the
10 information contained in the list or the actions of a person
11 in reliance upon the list. The list shall include a statement
12 that the information reflects the Department of
13 Consumer Affairs' most recent list of registered cremated
14 remains disposers, and that the consumer should verify
15 the disposer's registration status with the Department of
16 Consumer Affairs before hiring any cremated remains
17 disposer.

18 SEC. 2. Section 9741 of the Business and Professions
19 Code is amended to read:

20 9741. Registration shall be on the form prescribed by
21 the board and shall include, but not be limited to, the full
22 name of the registrant, business and residence addresses,
23 description and identification of aircraft or boats which
24 may be used in dispensing cremated human remains,
25 *pilot's certificate number if cremated human remains*
26 *will be scattered by air, a description and address of the*
27 *cremated remains storage area*, and the area to be served.
28 Each registration application shall be accompanied by
29 the cremated remains disposer fee.

30 SEC. 3. Section 9741.1 is added to the Business and
31 Professions Code, to read:

32 9741.1. The Department of Consumer Affairs shall
33 prepare and deliver to each registered cremated remains
34 disposer a booklet that includes, but is not limited to, the
35 following information: details about the registration and
36 renewal requirements for cremated remains disposers;
37 requirements for obtaining permits to dispose of
38 cremated human remains; storage requirements; duties
39 to the consumer, and other applicable laws.

1 SEC. 4. Section 7116 is added to the Health and Safety
2 Code, to read:

3 7116. Cremated remains may be scattered or placed
4 in areas where no local prohibition exists, provided the
5 cremated remains are not distinguishable to the public,
6 are not in a container, and that the person who has control
7 over disposition of the cremated remains has obtained
8 permission of the property owner to scatter on the
9 property.

10 SEC. 5. Section 7117 of the Health and Safety Code is
11 amended to read:

12 7117. (a) Cremated remains may be taken by boat
13 from any harbor in this state, or by air, for burial at sea.
14 Cremated remains shall be removed from their container
15 before the remains are buried at sea.

16 ~~Any~~

17 (b) Any person who buries at sea, either from a boat
18 or from the air, any human cremated remains shall file
19 with the local registrar of births and deaths in the county
20 nearest the point where the remains were buried, a
21 verified statement containing the name of the deceased
22 person, the time and place of death, the place at which
23 the cremated remains were buried, and any other
24 information that the local registrar of births and deaths
25 may require. The first copy of the endorsed permit shall
26 be filed with the local registrar of births and deaths within
27 10 days of disposition. The third copy shall be returned to
28 the office of issuance.

29 (c) *For purposes of this division, the phrase "at sea"*
30 *includes the inland navigable waters of this state,*
31 *exclusive of lakes and streams, provided that no such*
32 *burial may take place within 500 yards of the shoreline.*

33 ~~Notwithstanding~~

34 (d) *Notwithstanding* any other provision of this code,
35 the cremated remains of a deceased person may be
36 buried at sea as provided in this section and Section
37 103060.

38 SEC. 6. Section 103055 of the Health and Safety Code
39 is amended to read:



1 103055. (a) If the certificate of death is properly
2 executed and complete, the local registrar of births and
3 deaths shall issue a permit for disposition, that in all cases,
4 shall specify any one of the following:

5 (1) The name of the cemetery where the remains shall
6 be interred.

7 (2) Burial at sea as provided in Section 7117.

8 (3) *The address or description of the place where*
9 *remains shall be buried or scattered.*

10 (4) The address of the location where the cremated
11 remains will be kept, as provided in Section 7054.6, under
12 the conditions the state registrar may approve, including,
13 but not limited to, conditions in keeping with public
14 sensibilities, applicable laws, and reasonable assurances
15 that the disposition will be carried out in accordance with
16 the prescribed conditions and will not constitute a private
17 or public nuisance.

18 (b) Notwithstanding any other provisions of this part
19 relative to issuance of a permit for disposition, whenever
20 the death occurred from a disease declared by the state
21 department to be infectious, contagious, or
22 communicable and dangerous to the public health, no
23 permit for the disposition of the body shall be issued by
24 the local registrar, except under those conditions as may
25 be prescribed by the state department and local health
26 officers.